IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1977

No. 77-1677

GERALD RICHMAN,

Petitioner,

vs.

ROBERT L. SHEVIN, Attorney General of the State of Florida, RICHARD E. GERSTEIN, State Attorney for the Eleventh Judicial Circuit and the ELECTIONS COMMISSION of the State of Florida,

Respondents.

RESPONDENTS' BRIEF IN OPPOSITION TO THE PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF FLORIDA

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Opinions Below

The opinion of the Florida Supreme Court is reported at 354 So.2d 1200 (Fla. 1977).

Jurisdiction

The jurisdictional requisites are adequately set forth in the Petition.

QUESTION PRESENTED

Whether the Dade County Judicial Trust Fund, an organization whose express purpose is to contribute to candidates for judicial office, has the constitutional right to contribute to such candidates in excess of $1,000.

STATUTES INVOLVED

Section 106.01(2), Florida Statutes (1975), provides in pertinent part:

> 'Political committee' means a combination of two or more individuals, or a person other than an individual, the primary purpose of which is to support or oppose any candidate, issue, or political party and which accepts contributions or makes expenditures during a calendar year in an aggregate amount in excess of five hundred dollars. Organizations which are determined by the Department of State to be committees of continuous existence pursuant to s. 106.04 and political parties regulated by chapter 103

> shall not be considered political committees for the purposes of this chapter. . . .

Section 106.08(1)(a) provides:

> (1) No person or political committee shall make contributions to any candidate or political committee in this state, in moneys, material, or supplies or by way of loan, in excess of the following amounts:
>
> (a) To a candidate for countywide office or to a candidate in any election conducted on less than a countywide basis, one thousand dollars.

STATEMENT OF THE CASE

This litigation concerns the activities of the Dade County Judicial Trust Fund (Fund), an entity created by the Dade County Bar Association for the express purpose of making contributions to candidates for judicial office. The operation of the Fund is described in the opinion of the Florida Supreme Court, Richman v. Shevin, supra, 354 So. 2d at 1201-1202, but for purposes of clarity, some of the features of the operation of the Fund should be set forth.

The Dade Judicial Trust Fund was created by the Dade County Bar Association on August 21, 1972, as reflected in the Trust Agreement of the Dade County Bar Association which is appended hereto. (A. 1-10). There are five Trustees of the Fund, four of whom are appointed by the Dade Judicial Trust Fund Committee. The Trust Fund Committee is appointed by the President of the Dade County Bar Association. The remaining Trustee is the Presiding Judge of the Circuit Court of the Eleventh Judicial Circuit. Paragraph 4 of the Trust Agreement states that the purpose of the Fund is to distribute voluntary contributions from members of the Florida Bar to qualified judicial candidates as determined by a poll propounded to all members of the Bar maintaining offices in Dade County.

The Trust Agreement sets out a formula for the amount of contributions from members of the Bar ranging between $50.00 and $150.00; however, the Agreement sets forth no prohibition on amounts contributed. The Fund receives contributions from members of the Bar and distributes contributions to selected judicial candidates who choose to participate in the Fund in accordance with a pro rata formula set forth in paragraphs 10(b), (d) and (e) of the Agreement. (A.2). The Fund has contributed to Dade Judicial candidates in amounts in excess of $1,000.00.

Selection of qualified judicial candidates is based upon the results of a poll conducted by the Dade County Bar Association. The requisites for qualification under the poll are set forth in Paragraph 10 of the Trust Agreement (A. 4-5). In order to be deemed "fund qualified," an unopposed judicial candidate under Paragraph 10(a) must "receive qualified votes totaling at least 60% of the total number of qualified and unqualified votes as to their candidacy and receive not more than 85% 'don't know' votes of the total number of votes cast for their candidacy. . . ." Contributions to unopposed candidates are to be used only for the payment of the qualifying fee. Under Paragraph 10(c) "candidates for judicial office in a contested race (1) must receive at least 60% qualified votes of the total number of qualified and unqualified votes cast toward his candidacy; and (2) must receive not more than 85% 'don't know' of the total number of votes cast toward his candidacy."

The amounts contributed have been reported to the Office of the Secretary of State on political committee forms signed by the Chairman of the Dade Judicial Trust Fund committee. The reports break down the lump sum contributions and indicate the per capita contribution of each contributory member of the Dade County Bar Association to each participating poll-qualified candidate.

Paragraph 8 of the Trust Agreement provides that to be eligible to receive contributions from the Fund, each judicial candidate must sign a pledge agreeing to refrain from soliciting or

accepting campaign contributions from members of the Florida Bar, and to only apply the contributions received from the Fund toward campaign expenditures.

On February 14, 1977, the Florida Elections Commission determined that probable cause existed to believe the Fund was in violation of Section 106.08, and a Notice of Determination was issued by the Elections Commission.

In the trial court Plaintiff contended that the Fund was not a political committee within the definition of Section 106.011, Florida Statutes (1975), but if the Fund were such a committee, then Section 106.08, Florida Statutes (1975) prohibiting contributions in excess of $1,000 was unconstitutional as violative of the First and Fourteenth Amendments to the United States Constitution. The trial court found the Fund to be within the definition of "political committee," and upheld the constitutionality of the Florida Statute.

On appeal, the Florida Supreme Court affirmed the judgment of the trial court.

REASONS FOR DENYING THE WRIT

I.

THE FLORIDA SUPREME COURT PROPERLY APPLIED THE PRINCIPLES OF BUCKLEY V. VALEO, 424 U.S. 1, 96 S.CT. 612, 46 L.ED.2D 659 (1976) IN SUSTAINING THE CONSTITUTIONALITY OF SECTION 106.08,

FLORIDA STATUTES (1975).

Petitioner in this action challenged the constitutionality of Section 106.08, Florida Statutes (1975). That section provides:

> (1) No person or political committee shall make contributions to any candidate or political committee in this state, in moneys, material, or supplies or by way of loan, in excess of the following amounts:
>
> (a) To a candidate for countywide office or to a candidate in any election conducted on less than a countywide basis, one thousand dollars.

This Court has recently had occasion to consider these very issues in an exhaustive treatment of the subject in Buckley v. Valeo, 424 U.S. 1, 96 S.Ct. 612, 46 L.Ed.2d 659 (1976), where the court rejected a similar challenge to parallel federal campaign contribution limitations.

The federal statute, 18 U.S.C. §691 (d), defined "political committee" as:

> . . .any committee, club, association or other group of persons which receives contributions or makes expenditures during a calendar

> year in an aggregate amount exceeding $10,000. . . ."

The federal statute, 18 U.S.C. §691(g), defined "person" as:

> . . .an individual, partner, partnership, committee, association, corporation or any other organization or group of persons.

Pursuant to 18 U.S.C. §§608(b)(1) and 608(b)(2) "persons" were limited to $1,000 in campaign contributions and political committees" were limited to $5,000 in campaign contributions.

Against this backdrop the Court was confronted, inter alia, with a constitutional challenge to the campaign contributions limitation as an overbroad intrusion on First Amendment rights. This Court, however, found ample justification for upholding the government's interest in limiting campaign contributions:

> It is unnecessary to look beyond the Act's primary purpose--to limit the actuality and appearance of corruption resulting from large individual financial contributions--in order to find a constitutionally sufficient justification. Under a system of private financing of elections, a candidate lacking immense personal or family wealth

> must depend on financial contributions from others to provide the resources necessary to conduct a successful campaign. The increasing importance of the communications media and sophisticated mass mailing and polling operations to effective campaigning make the raising of large sums of money an ever more essential ingredient of an effective candidacy. To the extent that large contributions are given to secure political quid pro quos from current and potential office holders, the integrity of our system of representative democracy is undermined. Although the scope of such pernicious practices can never be reliably ascertained, the deeply disturbing examples surfacing after the 1972 election demonstrate that the problem is not an illusory one.
>
> Of almost equal concern as the danger of actual quid pro quo arrangements is the impact of the appearance of corruption stemming from public awareness of the opportunities for abuse inherent in a regime of large individual financial contributions. In Civil Service Comm'n v. Letter Carriers, supra, the Court

found that the danger to "fair and effective government" posed by partisan political conduct on the part of federal employees charged with administering the law was a sufficiently important concern to justify broad restrictions on the employees' right of partisan political association. Here, as there, Congress could legitimately conclude that the avoidance of the appearance of improper influence "is also critical. . .if confidence in the system of representative Government is not to be eroded to a disastrous extent." Id., at 565, 37 L.Ed.2d 796, 93 S.Ct. 2880. 424 U.S. 1, 46 L.Ed.2d 692.

The United States Supreme Court in Buckley likewise rejected the claim that the interests served by campaign contribution limitations could be drawn by a less restrictive means:

> Appellants contend that the contribution limitations must be invalidated because bribery laws and narrowly drawn disclosure requirements constitute a less restrictive means of dealing with "proven and suspected quid pro quo arrangements." But laws making criminal the giving and taking of bribes

> deal with only the most blatant and specific attempts of those with money to influence governmental action. And while disclosure requirements serve the many salutary purposes discussed elsewhere in this opinion, Congress was surely entitled to conclude that disclosure was only a partial measure, and that contribution ceilings were a necessary legislative concomitant to deal with the reality or appearance of corruption inherent in a system permitting unlimited financial contributions, even when the identities of the contributors and the amounts of their contributions are fully disclosed." 424 U.S. 1, 46 L.Ed.2d 693.

In this case, however, Appellant contends that the Florida Supreme Court erred in not striking down the Florida Campaign Contributions Act as overbroad when applied to the Dade Judicial Trust Fund. Appellant's rationale in support of this proposition is that the Fund was devised by private individuals to eliminate the same evil the Legislature sought to eliminate in the Florida Elections Code, Chapter 106, Florida Statutes (1975). Therefore, the reasoning goes, since the Fund serves the same function as the statute, the Legislature's proper concern vanishes.

The conclusion urged by Appellant is that once private citizens remove the legislative concern, the Legislature then has no power to regulate in that area, and if a statute does so, such statute is rendered unconstitutional.

Such a construction usurps the Legislature's function, and places valid legislative enactments at the discretion of private citizens who seek to substitute their judgments of how best to regulate matters of public concern for that of the Legislature. Regardless of the efficacy of such private remedies, it is for the Legislature, and not private citizens by their own devises, or through the court, to establish the means of such regulation. Mourning v. Family Publications Service, 411 U.S. 356, 36 L.Ed.2d 318, 334, 93 S.Ct. 1652 (1973). In Mourning, the Supreme Court concisely stated this principle.

> It is not a function of the courts to speculate as to whether the statute is unwise or whether the evils sought to be remedied could better have been regulated in some other manner. 411 U.S. at 377, 36 L.Ed.2d at 334.

The question here is whether the Legislature constitutionally has the power to enact the statute. In his dissent in Tyson & Bro. - United Theater Ticket Offices v. Banton, 273 U.S. 418, 71 L.Ed. 718, 47 S.Ct. 426, 58 A.L.R. 1236 (1927), Mr. Justice Holmes expressed this tenet

of constitutional law:

> I think the proper course is to recognize that a state legislature can do whatever it sees fit to do unless it is restrained by some express prohibition in the Constitution of the United States or of the state, and that courts should be careful not to extend such prohibitions beyond their obvious meaning by reading into them conceptions of public policy that the particular court may happen to entertain. 273 U.S. at 445-446, 71 L.Ed. at 729.

Moreover, as a matter of law, it has been held that the courts will not substitute their social and economic beliefs for the judgment of legislative bodies which are elected to pass laws. Kahn v. Shevin, 416 U.S. 351, 40 L.Ed.2d 189, 94 S.Ct. 1734 (1975).

The Petitioner does not contest the Legislature's power to regulate campaign contributions. Indeed, under Buckley v. Valeo, supra, such a proposition would be untenable. Instead, Petitioner seeks to have the court invalidate Section 106.08, Florida Statutes (1975), because the Legislature did not exempt from the statute's operation those organizations which set up their own methods to police themselves. The fact that an organization has noble intentions is irrelevant

because as indicated by the authorities cited above, the state Legislature is vested with the power to decide what methods best achieve this legitimate governmental interest. Moreover, under Florida law legislative sanction of private regulations of campaign contributions would be susceptible to violation of the constitutional principle that the Legislature may not delegate legislative functions to private persons or corporations, see generally, 6 Fla. Jur. Const. Law §150, and a preferred classification or exemption for lawyers or any other special interest group would raise wide-ranging equal protection questions. See, e.g., Seaboard Air Line Railway v. Simon, 47 So. 1001, 56 Fla. 545; Rainey v. Nelson, 257 So.2d 538 (Fla. 1972).

In this case, however, the state has a legitimate interest in the regulation of campaign contributions. Under Section 106.08, Florida Statute, the Plaintiff may individually support with monetary contributions any judicial candidate he chooses within the limits of Section 106.08. He likewise may join with others and collectively support with contributions a judicial candidate within those limits. The Legislature has determined, however, that collectively, individuals should have only a certain amount of political clout as far as monetary contributions are concerned. Plaintiff can associate with other groups or individuals in support of judicial candidates. He can voice his support in the manner he chooses, except to the extent that the Legislature has determined that monetary

support should be limited. The state's concern with the actuality and appearance of corruption in the political process authorized the Legislature to decide that persons individually, or collectively, should not wield uncontrolled political clout simply by reason of their monetary resources. The Legislature has decided on the means to regulate this legitimate interest. The fact that this regulation applies equally to the potentially good persons, as well as the potentially corrupt persons, does not therefore render the statute unconstitutional. Petitioner seems to suggest that it is incumbent on the Legislature to show that all persons subject to the regulation are potentially corrupt. This is not the law. This Court in Buckley v. Valeo specifically upheld such regulations as within permissible constitutional limits, and rejected the contention that across-the-board limitations on campaign contributions were overly broad or impermissibly infringed on First Amendment rights.

Both the trial and appellate courts in this case had the benefit of this Court's decision in Buckley v. Valeo, supra, and both courts found that the Dade Judicial Trust Fund could be constitutionally required to abide by the Florida campaign contribution law under the principles set forth in Buckley. The fact that the Fund was not devised for corrupt purposes in no way diminishes the Florida Legislature's power to regulate the amount of financial political clout which this group of individuals in their collective capacity

may wield. This is precisely what the Florida Supreme Court held in this case:

> Appellant argues that the fund was organized to eliminate the evil and corruption contemplated by the Legislature and, therefore, since the fund serves the same purpose as the statute, the Legislature cannot regulate in that area. In effect, this argument contends for a usurpation of the legislative function by private individuals who determine in their own judgment how best to regulate matters of public concern. The Legislature, not private individuals, determines what reasonable regulations should be enacted to avoid evil and corruption in the election process. This court likewise does not legislate by determining the wisdom of legislative policy but, rather, decides whether the legislative regulation comports with the Constitution. Supra at 1205.

Here, the Florida Supreme Court has properly applied the constitutional requirements set forth in Buckley v. Valeo, supra, and there is no reason for this Court now to reconsider the Buckley decision under the circumstances of this case.

II.

THIS CASE DOES NOT PRESENT SPECIAL OR IMPORTANT REASONS FOR GRANTING A WRIT OF CERTIORARI.

Rule 19 of the Supreme Court Rules provides in part that a writ of certiorari ". . .will be granted only where there are special and important reasons therefor." Rule 19(a), S.Ct.R. then sets forth an indication of the character of the reasons considered in the disposition of petition for writ of certiorari:

> Where a state court has decided a federal question of substance not theretofore determined by this court, or has decided it in a way probably not in accord with applicable decisions of this court.

As indicated above, this Court in Buckley v. Valeo, supra, exhaustively treated the constitutional issues raised in this case, and the Florida Supreme Court's decision herein is in accord with Buckley. Moreover, this case is of limited application and does not present special and important reasons of the nature required to sustain the issuance of a writ of certiorari.

As noted by the Florida Supreme Court, "[A]ppellant (Petitioner here) expressly declares he does not challenge the constitutionality of the contribution

limitation but, rather, only questions the imposition of such limitation on the Judicial Trust Fund." Richman v. Shevin, supra, 354 So.2d at 1204. Essentially, Petitioner in this case contended that the Florida statute challenged here was not meant to apply to devices like the Judicial Trust Fund, and that the Fund did not fall within the statutory definitions. Accordingly, this case primarily presents a question of state statutory construction. The circumstances of this case thus do not present questions of a wide-ranging or continuing nature, but are in fact limited to the application of a specific state statute to this one trust device as it is presently organized. Cases episodic in nature, or of such limited application are generally held insufficient to sustain the issuance of a writ of certiorari. Cf., Rice v. Sioux City Memorial Park Cemetery, 349 U.S. 70, 75 S.Ct. 614, 99 L.Ed. 897 (1955). Accordingly, this case does not meet the special and important criteria as set forth in Rule 19, Supreme Court Rules, and certiorari should therefore be denied.

CONCLUSION

For the foregoing reasons, Respondents Robert L. Shevin, Attorney General of the State of Florida, and Richard E. Gerstein, State Attorney for the Eleventh Judicial Circuit, submit that the questions upon which this cause depend are insufficient to support the issuance of a writ of certiorari. Respondents accordingly move this Court to deny the Petition for Writ of Certiorari.

Respectfully submitted,

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Attorney General

RICHARD A. HIXSON
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Respondents' Brief in Opposition to the Petition for Writ of Certiorari to the Supreme Court of Florida was forwarded, by U.S. Mail, to TALBOT D'ALEMBERTE, ESQUIRE, Steel Hector & Davis, 1400 Southeast First National Bank Building, Miami, Florida 33131, and STEPHEN MARC SLEPIN, Slepin and Schwartz, 1311 Executive Center Drive, Tallahassee, Florida 32301, this _____ day of June, 1978.

RICHARD A. HIXSON

APPENDIX

DADE COUNTY BAR ASSOCIATION

TRUST AGREEMENT

THIS AGREEMENT, made and executed as of the 21st day of August, 1972 by and between the DADE COUNTY BAR ASSOCIATION, hereinafter called the Grantor, and G. LESTER FREEMAN, THOMAS H. ANDERSON, DANIEL K. GILL, JAMES W. KEHOE, and RICHARD W. McEWEN, hereinafter called the Trustees.

The Grantor has delivered to the Trustees the sum of One Hundred Dollars ($100.00) receipt for which is hereby acknowledged. The Grantor may from time to time pay to the Trustees funds to be added to the Trust estate to be held under the terms of this agreement.

NOW THEREFORE, the Trustees hereby agree that they will hold said funds and any additional funds that may be added to the Trust Estate in trust for the following uses and purposes, to wit:

1. The name of this trust shall be the DADE JUDICIAL TRUST FUND.

2. The trust shall be administered by five Trustees, all of whom shall be appointed by the DADE JUDICIAL TRUST FUND Committee provided however, that one Trustee shall be the Presiding Judge of the Circuit Court of the Eleventh Judicial Circuit or his designee, and only one of the other four Trustees may be a member of the Bar.

3. The Trustees shall establish and maintain a bank account into which will be deposited all funds received as set forth herein.

4. The purpose of the Trust Fund will be to receive and distribute voluntary contributions from members of The Florida Bar which funds shall then be distributed directly in accordance with the formula herein.

5. It is recommended that each attorney practicing in Dade County whether he is practicing individually or as a member of a professional association or partnership contribute the following minimum amounts to the Trust Fund, and no contribution in any lesser amount will be accepted:

Attorney admitted to practice for less than five years-----$ 50.00

Attorneys admitted to practice for more than five years but not more than ten years---------- 100.00

Attorneys admitted to practice for more than ten years---------- 150.00

6. All persons contributing to the fund shall sign a pledge which, in substance, will provide that the person so contributing shall make no other monetary contribution, either

directly or indirectly to any incumbent judge or candidate for judicial office other than the contribution made directly to the Trust Fund. Nothing herein is intended to prevant any contributor to the Trust Fund from making a contribution in terms of time or personal effort toward a particular judicial candidate. All pledges shall be irrevocable until closing of the polls for the then pending election.

7. The Trustees shall maintain at all times a current list of all contributions and contributors at the offices of the Dade County Bar Association and shall assure strict compliance with all applicable election laws. The Trustees shall further publish to the Bar and to the members of the general public in a newspaper of general circulation at least seven days prior to any primary or general election, the names of all contributors and the amounts they have contributed.

8. Only incumbent judges and judicial candidates voluntarily signing the pledge attached hereto which, in substance requires that such incumbent judge or judicial candidate (1) shall not directly or indirectly solicit campaign contributions from any member of The Florida Bar; (2) shall not accept any campaign funds from any members of The Florida Bar other than such funds as are

distributed directly under the Trust Fund; (3) shall apply all monies received from the Trust Fund only toward campaign expenditures, including filing fees, and (4) shall return to the Trust Fund any monies not so expended, may receive monies from this Trust Fund in accordance with the formula contained herein.

9. Said pledge of an incumbent judge or judicial candidate once received shall be irrevocable. Pledges of unopposed candidates or unopposed incumbents may be signed and returned to the Dade Judicial Trust Fund at any time up to three days after the day of certification of the judicial poll. All pledges of candidates in contested races, and all pledges of contributors must be signed and returned to the Dade Judicial Trust Fund not later than the last day on which ballots for the judicial poll are returnable, and all ballots shall remain sealed until the day following their final return date.

10. All contributions to the fund, other than monies expended to publish biographical sketches as set forth in paragraph 15, shall be distributed by the Trustees of the fund in accordance with the following formula not later than seven days from the date of receipt and certification of the judicial poll propounded to all members of the Bar maintaining offices in Dade County,

by the Dade County Bar Association:

a. A "Fund Qualified" candidate is defined to be a candidate who meets the requirements set forth herein for receipt of monies from the Trust Fund.

b. All unopposed candidates or unopposed incumbents who receive qualified votes totaling at least 60% of the total number of qualified and unqualified votes as to their candidacy and receive not more than 85% "don't know" votes of the total number of votes cast for their candidacy shall be entitled to share pro-rata in the distribution of funds along with all other Fund Qualified candidates up to the amount of their qualifying fees and shall apply funds thus received only to payment of the qualifying fee. Such unopposed candidates or incumbents shall specifically agree and pledge to return to any donor, whether or not such donor be a member of The Florida Bar, any funds that have been received by said unopposed candidates or incumbents to the extent that such funds exceed the amount of the qualifying fee less the amount of monies received from the Trust Fund.

c. To be eligible for contributions from the Trust Fund a candidate for judicial office in

a contested race (1) must receive at least 60% qualified votes of the total number of qualified and unqualified votes cast towards his candidacy; and (2) must receive not more than 85% "don't know" of the total number of votes cast toward his candidacy.

d. The Trustees, based upon the formula, shall then determine the total number of divisions in which there is at least one candidate, either opposed or unopposed, who is Fund Qualified to receive contributions from the Fund in the divisions of the Third District Court of Appeal of Florida, and the Circuit Court and the County Court of the Eleventh Judicial Circuit. The total funds of the Trust Fund received seven days from the date of the certification of the judicial poll shall then be prorated among such divisions provided, however, that 25% of the total funds received shall first be allocated to the County Court divisions and the remainder to all other eligible divisions. Should the funds received for each of those divisions exceed the qualifying fee for said divisions, the excess of funds over and above the total amount of the qualifying fees shall then be redistributed pro-rata to all divisions in which there are opposed Fund Qualified candidates.

e. As to each such division in where there is only one Fund Qualified opposed candidate, said candidate shall received the entire amount of funds allocated to his division. As to each division in which there is more than one Fund Qualified candidate, the funds for that division shall be distributed pro-rata to all such Fund Qualified candidates in that division.

11. In recognition of the time of this Resolution in relation to the now pending election, for the 1972 election only, any and all persons whether judges or members of the practicing bar desiring to contribute to or participate in this Trust Fund wherein they have already paid or received campaign contributions from sources other than this fund, may voluntarily participate in this fund by signing the pledge card at the required time as herein set forth, and by further agreeing that (1) as of the time of signing they will thereafter honor the pledge and (2) if they have been the recipients of funds prior to signing their pledge, they will then return on a pro-rata basis to all contributors all funds received from such contributors to the extent that such funds are matched or exceeded by monies received from the Trust Fund.

12. After distribution of funds in accordance with the foregoing formula up to the maximum amount permitted by the applicable election laws,

any surplus funds shall be retained in the Trust Fund in an interest bearing account for distribution at the next following judicial election.

13. In the published results of the judicial poll, the fact of whether or not a judge or candidate participated in the Trust Fund will be conspicuously and prominently set forth.

14. All members voting on the poll shall be advised in writing at the time they receive their ballots of the existence of the Trust Fund and its relationship to the poll.

15. All candidates in opposed races shall be advised in writing by the Trustees of the Dade Judicial Trust Fund that they may submit a brief biographical sketch setting forth their professional qualifications and background, in a general form to be approved by the Dade Judicial Trust Fund Committee, which information shall then be published by the Dade Judicial Trust Fund in the Miami Review within a reasonable time after they are received and prior to the final return date of the judicial poll, the payment for such publication to come from the Trust Fund. At the discretion of the Trustees, funds may also be used to publish such biographical sketches in an additional daily newspaper of general circulation, provided that all candidates who timely submit their sketches are treated equally.

16. It is specifically decreed to be the policy of the Dade Judicial Trust Fund that no candidate or person voting in the poll may actively solicit the vote of or attempt to influence the vote of any person with respect to his vote in the judicial poll.

17. Recognizing the extremely limited time which is presently available to implement this plan for the pending election, but deeming it to be in the best interest of the Bar to attempt to implement this plan at this time, the Dade Judicial Trust Fund Committee is specifically directed to review the amount of monies contributed to the Trust Fund at the time of certification of the poll, in light of the results of the Poll and the number of candidates determined to be Fund Qualified. Should the Committee then determine that the monies received are insufficient to meet the intended purpose of this plan, it may then, in its discretion, either apply the monies available only to Fund Qualified candidates who have opposition, or, if the monies available are determined inadequate even for that purpose, then the Committee shall immediately release all candidates and contributors from their pledges and allow all contributors, upon request, to have their monies returned to them.

18. The Trustees of the Dade Judicial Trust Fund are specifically authorized to spend monies from the Trust Fund for the purpose of

publicizing this plan, provided that such action receives the prior approval of the Dade County Bar Association Tax Committee.

19. The Dade Judicial Trust Fund Committee shall have continuing liaison of the activities of the Trust Fund and shall receive reports from the Trustees as to the implementation of this plan.

20. The Dade Judicial Trust Fund Committee shall be appointed by the President of the Dade County Bar Association with the consent of the Board of Directors. In addition to the authority hereinbefore granted to the Dade Judicial Trust Fund Committee, said Committee shall make all policy decisions with respect to the operation of the Trust Fund and the Trustees of the Dade Judicial Trust Fund upon certification by the President of the Dade County Bar Association as to the membership of said Committee, may rely upon said Committee as to said policy decisions.

Executed this 21st day of August, 1972, at Miami, Florida.

DADE COUNTY BAR ASSOCIATION